

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MAURILO SERRANO, et al.,

No. C 12-4126 RS

Plaintiffs,

**ORDER REMANDING TO SUPERIOR  
COURT OF CALIFORNIA**

v.

FREDERICO ROCHA, et al.,

Defendants.

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On August 6, 2012, Defendants Federico Rocha, et al, (“Defendants”) removed this case from Monterey County Superior Court. Plaintiffs Maurilio Serrano, et al, (“Plaintiffs”) brought an unlawful detainer action against Defendants in state court, and Defendants seek to present federal claims under the Fourteenth Amendment’s Equal Protection Clause as affirmative defenses.

Federal courts are courts of limited jurisdiction, and a “federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears.” *Stock W., Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989) (citation omitted). “[T]he presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

That rule applies equally to evaluating the existence of federal questions in cases brought initially in

1 federal court and in removed cases. *See Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc.*,  
2 535 U.S. 826, 830 n.2 (2002). Relevant for purposes here, a federal question exists only when it is  
3 presented by what is or should have been alleged in the complaint. *See id.* at 830-31. The  
4 implication of a federal question through issues raised by an answer does not suffice to establish  
5 federal question jurisdiction. *See id.* at 831.

6 The cause of action in this case does not arise under federal law. Accordingly, the suit is  
7 remanded to Monterey County Superior Court.

8 IT IS SO ORDERED.

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10 Dated: 10/26/12



RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE